

Sport minister St-Onge says NDAs in athlete agreements are contrary to safe sport

By: **Lori Ewing** On: 08/06/2022 16:24

Canada's sport minister Pascale St-Onge says athletes should have the freedom to speak, and that non-disclosure agreements contradict the "very principle of safe sports."

St-Onge was responding to concerns from bobsled and skeleton athletes about a non-disparagement clause in their athlete agreement, which must be signed in order to compete and receive Sport Canada funding, for the upcoming season.

"As the minister responsible for sports, I will always be an ally to the athletes. My priority is to ensure that they are safe," St-Onge told The Canadian Press.

"If any of them feel uncomfortable in a situation or believe they are being mistreated or abused, they must have the freedom to speak up. Adding a non-disclosure clause goes against the very principle of safe sports. We must break the culture of silence in sport and I expect all national sport organizations to actively participate in that."

Bobsleigh Canada Skeleton (BCS) and Boxing Canada are among national sport organizations that have NDAs in their agreements. The BCS clause prohibits athletes divulging or conveying anything that "would result in a conflict of interest with BCS and/or in any way harm, result in, and/or cause detriment to BCS in any way whatsoever." It's in effect for six months following the termination or completion of an athlete's contract.

BCS declined to comment on Wednesday. Boxing Canada didn't respond to a request for comment.

"I have nothing good to say about some of those clauses," said Alex Kopacz, who won Olympic gold in the two-man bobsled with Justin Kripps in 2018. "The thing is, some of (the athletes) are kids. . . And how many people are equipped to say, 'Oh, my lawyer read this over. And we're not comfortable with the following statements.' And then (the sport) says 'That's neat. But I guess you'll have to find another team, because you can't be on this one.'"

The clause has been in the BCS contract for at least four years, but the athletes' fear of reprisal has grown since more than 60 current and former athletes publicly called for the resignation of president Sarah Storey and high-performance director Chris LeBihan on March 7, amid what they said was a toxic environment in their sports.

AthletesCAN, the association representing Canadian athletes, wrote a template for athlete agreements in 2019 in partnership with Sport Canada, and a working group that included athletes, lawyers and several national sport organizations. It did not contain a non-disparagement clause.

"Athlete agreements had become this grab bag of inconsistency, athletes in different sports had to do different things. Some were good, some were bad," said retired race walker Ann Peel, a founding member of AthletesCAN and a member of that working group. "Athletes never got to negotiate them or even have any input. So calling them an 'agreement' was ridiculous, because they were never negotiated. More like 'Here's the rules. Sign on or you don't get your money.'"

The group's goal was to have 100 per cent of national sport organizations (NSOs) adopt the template by 2022. The template was adopted by numerous federations including Water Polo Canada, Athletics Canada, Gymnastics Canada and Canada Snowboard. Canada Basketball is also among sports with no NDA.

In a statement, AthletesCAN said it strongly advises NSOs to implement their template.

"Broad non-disclosure clauses used in alternate agreements go beyond our recommended approach, and act counter to the importance of empowering the athlete voice to create a safe sport experience across Canada for all," they said.

Russell Reimer, whose agency Manifesto Sport Management represents several Olympians, was part of the working group.

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"If you are sport administrator in this country, and you don't wake up in the morning saying, 'How can I make this organization more athlete-centred?' why are you in the business?" Reimer said.

"Everything you do should be viewed through the lens of: Is this athlete-centred? If you do that, you create an environment where athletes can excel. That's pretty straightforward. Every culture in every other company knows that. Treat your people right and people do great work."

Peel, a lawyer and the first executive director of non-profit sports organization Right to Play, said Canadian law dictates there needs to be a compelling reason to have a confidentiality clause. They're usually used to protect intellectual property.

"But to just say you can't talk about anything, without offering a reason, and certainly without offering any kind of compelling reason, I think is completely beyond the pale," Peel said. "We know why (NSOs have had them). They don't want athletes going to the press and complaining.

"And so rather than fix the problems and talk with the athletes seriously, they just gag the athlete, and that's not cool. That's actually not even allowed in Canadian law. You don't get to just gag people."

In what St-Onge has called a safe sport "crisis" in Canada, the past few months have seen athletes in numerous sports speak out about maltreatment and toxic environments. Four days after Boxing Canada penned a letter to Sport Canada, high performance director Daniel Trepanier resigned.

Sport Canada recently launched the first Office of the Sport Integrity Commissioner (OSIC), which will handle complaints of maltreatment in sport. St-Onge has made participation in the OSIC mandatory for national sport federations. She's vowed a review of the funding agreement with national sport organizations, to improve governance and accountability, and plans to revisit the Canadian Sport Policy, which binds all sport organizations across Canada.

Both Reimer and Peel recommend St-Onge make the AthletesCAN athlete agreement template mandatory for Canadian sport organizations.

"That piece of work is basically just sitting there," Reimer said. "That would create consistency for every single athlete in the country. Every athlete would know that Sport Canada has stamped this template -- 'I can trust Sport Canada.'"

"I think that would be a terrific first step," Peel said.

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